



SENIOR & LONG TERM CARE DIVISION COMMUNITY SERVICES BUREAU

HOME AND COMMUNITY BASED WAIVER Policy Manual

Section: General Program Administration

Subject: Fair Hearings

References: ➤ ARM 37.5.103, 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, 37.5.337, 37.40.1426.

PURPOSE

The purpose of a Fair Hearing, is to allow a Medicaid provider or Medicaid member the opportunity to appeal any adverse action made by the Department; thought to have affected the amount or scope of Medicaid payments received, prospective payments and/or eligibility for Medicaid.

REQUIREMENT

Any Medicaid provider or Medicaid member may appeal any adverse action made by the Department which is felt to have affected the amount or scope of Medicaid payments received and/or amount or scope of Medicaid services.

ADVERSE ACTION

1. Examples of an adverse action that involve a member include:
 - a. An action by the Department denying, suspending, reducing or terminating benefits of a member, or an action by the Department demanding repayment of or to recover an overpayment of benefits to a member; and
 - b. An action by the Department establishing conditions on the manner or form of benefits, including restrictive benefits or protective payments, or establishing conditions for the receipt of benefits, including work requirement.
2. Examples of an adverse action that involves a provider agency provider include:
 - a. An action by the Department to deny, suspend, reduce, revoke, or terminate licensure, registration, certification, or enrollment of a provider or to fail to renew certification,

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enrollment, licensure, or the registration certificate of a provider who has applied for renewal;

- b. An action by the Department establishing the rate of reimbursement for a provider or denying in whole or in part a provider's claim for services or items; and
- c. An action by the Department demanding repayment of an overpayment made to a provider, or to impose a penalty or sanction against a provider or a provider agreement for the Medicaid program.

REQUESTING FAIR HEARINGS

- 1. A member or provider agency must request a hearing in writing and mail the request to Office of Fair Hearings, P.O. Box 202953, Helena, MT, 59620-2953.
 - a. A member's fair hearing request must be received in writing within 90 days from the date of mailing of the notice of adverse action.
 - b. A provider agency's fair hearing request must be received in writing within 30 days from the date of mailing of the notice.

CONDUCTING FAIR HEARINGS

The Administrative Law Judge (ALJ) of the Department of Fair Hearings conducts the fair hearing. Decisions by the Hearings Officer are binding and must conform to federal and state laws, regulation or policy, and must be based exclusively on evidence and other material introduced at the hearing. A fair hearing will be preceded by an administrative review of the action.

ADMINISTRATIVE REVIEW

Upon the request for a hearing by a member or a provider agency, the Department shall conduct an administrative review with the purpose of resolving the case and avoiding an unnecessary hearing. The review may be conducted in person or by telephone. In person reviews shall be conducted at a place designated by the reviewer and reasonably convenient to the member or as designated by the hearing officer.

- 1. An administrative review includes the following:

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- a. An informal conference with the Department; and
 - b. The preparation of an administrative review report; which includes a review of relevant facts and legal authority and circumstances involved in the adverse action by the Department.
2. The Department representative designated to conduct the administrative review may schedule the administrative review and must notify the member or provider agency of the date, time, and place of the conference. If the member or provider agency cannot appear at the date and time set for the conference, the member or provider agency must be given a reasonable opportunity to reschedule the conference.
3. An adverse action may be reversed or modified by the Department at any time before, during, or after the administrative review. In this case, a hearing will not be held unless the member or provider agency is aggrieved by the modified adverse action and request that the hearing be held.